IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH,JAIPUR

::JUDGMENT::

THE STATE OF RAJ. AND ORS. VS. KAILASH CHAND SHARMA

D.B.CIVIL SPECIAL APPEAL (W) NO.484/2006 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE READ WITH HIGH COURT RULES AGAINST THE JUDGMENT DATED 9.12.2005 PASSED IN SBCWP NO.5259/2005.

DATE OF JUDGMENT ::: 16.1.2007

PRESENT
HON'BLE MRS.GYAN SUDHA MISRA,J.
HON'BLE MR.K.C.SHARMA,J.

Mr. SS Sharma Addl.GA for the appellant-State
Ms. Gayatri Rathore for the respondents.

BY THE COURT:

This appeal has been preferred against the order of the learned Single Judge dated 9.12.2005 passed in SBCWP No.5259/2005 by which the learned Single Judge had directed the respondents, who are the appellant-herein, to comply with the order dated 5.5.2005 and pursuant to this order they were directed to proceed further with regard to making the payment to the petitioner/respondent herein.

Assailing the aforesaid order of the learned Single Judge it was submitted by the Government Advocate on behalf of the appellant-State that the appellants are not liable to make the payment to the respondent as only three tube-wells had been installed by the respondent for which payment has also been made to him. It is thus obvious that the claim of payment at the instance of the respondent is not undisputed as recorded in the order of the learned Single Judge.

We therefore deem it appropriate to direct the appellant to pass a reasoned order stating as to why the payment has to be denied to the respondent by taking into consideration, the effect of the order dated 5.5.2005 as also the enquiry report dated 28.2.2005 as contained in Annexure 13. If in view of the order dated dated 5.5.2005 and the enquiry report dated 28.2.2005, the amount is payable to the respondent, there should be no difficulty in making the payment and if according to the appellant-State it is not payable, then it will pass a reasoned order within a period of three months from today as to why the payment is not fit to be made to the respondent and that order shall be open to challenge by

the respondent by way of a fresh writ petition or by filing a money suit whichever remedy is available to the respondent.

The appeal is disposed of in the light of the aforesaid directions.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG